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UNITED NATIONS CONFERENCE ON
STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
Sixth session
New York, 24 July-4 August 1995

STATEMENT OF THE CHAIRMAN, AMBASSADOR SATYA N. NANDAN, ON
4 AUGUST 1995, UPON THE ADOPTION OF THE AGREEMENT FOR THE
IMPLEMENTATION OF THE PROVISIONS OF THE UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982
RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING
FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

We have just adopted an historic instrument. You deserve hearty
congratulations.

The instrument we have adopted is far-sighted, far-reaching, bold and
revolutionary. It addresses the problems facing the international community in
relation to the fisheries for straddling fish stocks and highly migratory fish
stocks for which the Conference was requested to find answers. It takes account
of the nature of the stocks and calls therefore for action not only at the
national level, but also at the subregional, regional and global levels.

The content of the Agreement constitutes a substantive and effective
response to the mandate given to the Conference by the General Assembly in its
resolution 47/192 of 22 December 1992. Further, the Conference has recommended
to the General Assembly to review developments relating to the conservation and
management of straddling fish stocks and highly migratory fish stocks
biennially, beginning in 1997. It has urged States to sign the Agreement and to
ratify or accede to it. Thus, the Conference has discharged its mandate.

The provisions of the Agreement are practical and realistic. They are
detailed, precise and sound and they are firmly based on the principles
enshrined in the 1982 United Nations Convention on the Law of the Sea. The
Agreement and the Convention are intrinsically linked and are inseparable. At
the same time as the Agreement cannot stand without the Convention, it
reinforces the foundation laid by the Convention. In many ways, it better



secures the future of the Convention by dealing with problems raised in its implementation. This shows the dynamic nature of the process set in train by the elaboration of the Convention.

The link between the Agreement and the Convention is reflected not only in the very title of the Agreement and its preamble, but throughout its substantive provisions. Indeed, the negotiations were premised on the approach taken by all participants that the outcome must be in full accord with and build on the Convention.

The Agreement is built on three essential pillars. First, it sets out principles on which conservation and management of the stocks must be based and establishes that such management must be based on the precautionary approach and the best available scientific information.

The second pillar ensures that the conservation and management measures are adhered to and complied with, and that they are not undermined by those who fish for the stocks. For this purpose, the primary responsibility of the flag State is reaffirmed and the framework for action by States other than the flag States is set out with clear safeguards against abuse.

The third pillar is the provision for peaceful settlement of disputes. While providing for various possibilities of non-binding settlement, in the end result every dispute can be submitted to a court or tribunal for a binding decision.

In essence, this Agreement provides for the conservation and sustainable use of the fish resources in the oceans. In place of conflict, it provides a framework for cooperation in the conservation and management of those resources. It promotes the peaceful use of the oceans, a fundamental principle embodied in the 1982 United Nations Convention on the Law of the Sea which itself is derived from the purposes and principles of the Charter of the United Nations.

In providing for a framework that promotes good order in the oceans and the effective management and conservation of high seas resources, the Agreement, inter alia, establishes detailed minimum international standards for the conservation and management of the two types of stocks; ensures that the measures taken for the conservation and management of those stocks in areas under national jurisdiction and in the adjacent high seas are compatible and coherent; ensures that there are effective mechanisms for compliance and enforcement of those measures on the high seas; and recognizes the special requirements of developing States in relation to conservation and management as well as the development and participation in fisheries for the two types of stocks.

I need not remind the Conference that the Food and Agriculture Organization of the United Nations (FAO) has warned that disastrous social and economic consequences await the entire fishing industry unless fishing fleets are reduced in size, subsidies are eliminated and the activities of fishing fleets are more effectively regulated. The international community has waited with expectation for the outcome of this Conference. It is my considered opinion that the Agreement that has been adopted here for the conservation and management of

straddling fish stocks and highly migratory fish stocks provides the necessary basis for the better management of these stocks.

The question might be asked, where would we be without the Agreement that has just been adopted? This is not an easy question to answer, but it is my belief that if we failed to adopt a strong and binding Agreement at this Conference, we would have failed the international community, and in so doing, would have contributed to the further demise of the major international fishery resources. I also believe that failure to agree on a strong and comprehensive regime would have promoted further conflict on the high seas and necessitated and encouraged some States to initiate unilateral action in their frustrated attempts to solve problems that can only be properly addressed multilaterally.

Under the Agreement, the general principles for conservation and management, the application of the precautionary approach and the requirements to set reference levels, the provisions on compatibility of conservation and management measures and the rules on data collection and exchange apply to fisheries within and beyond national jurisdiction. The conservation and management of straddling fish stocks and highly migratory fish stocks must, taking into account their biological unity, be the responsibility of all States concerned in a particular fishery. Improved standards for management are to be applied both within and beyond national jurisdiction. In respect of areas under national jurisdiction, there is an identifiable and accountable authority, that is, the coastal State. The responsibilities of the coastal State are clearly stated in the Convention and these have been further elaborated and reinforced in this Agreement in terms of better management standards and practices that are to be applied.

One of the cornerstones of the Agreement is the provision to ensure compatibility of conservation and management measures throughout the range of stocks. In this sense, the scope of the Agreement is broad enough to embrace resources as a whole, while fully respecting the different jurisdictional responsibilities. No one should escape from the conservation and management principles of the Agreement.

Sound fisheries conservation management requires high-quality data that are comprehensive and available to fisheries managers in a timely manner. The Agreement provides the necessary framework for the collection, provision and exchange of data to ensure proper conservation and management of straddling fish stocks and highly migratory fish stocks.

While acknowledging the consensus reached on the Agreement, we are all very much aware that substantial effort will be required to ensure that its provisions are implemented in a sustained and complete manner. States parties to the Agreement will be required to take specific action at the national level to implement the Agreement. Some States, in particular developing States which lack domestic administrative and financial capacity, will require assistance for this purpose.

The Agreement clearly recognizes the needs of developing States and provides for certain forms of cooperation and the provision of special assistance in order to enable those States to fulfil their obligations. In this

connection, international organizations such as the Food and Agriculture Organization of the United Nations will be called upon to provide important technical assistance in the implementation process. Moreover, it is anticipated that FAO will work closely with its own regional fishery bodies and non-FAO fishery bodies as a means of giving the Agreement practical effect.

Subregional or regional fisheries management organizations or arrangements will continue to play a pivotal role in the conservation and management of straddling fish stocks and highly migratory fish stocks. The Agreement gives prominence to those organizations and arrangements as the principal means for the implementation of measures designed to conserve and manage these two types of stocks. The full cooperation of the international community is imperative for this goal to be achieved.

The political leaders who met at the Rio Summit committed themselves to wide-ranging initiatives that would, inter alia, promote the sustainable use of natural resources, including the important and dwindling fish stocks. Consequently, since the 1992 United Nations Conference on Environment and Development, a number of important and complementary initiatives have been launched. These initiatives have the common goal of seeking to secure enhanced conservation and management of fisheries resources and to ensure that those resources, under all circumstances and in all regions of the world, are utilized in a sustainable manner.

We are indebted to the Food and Agriculture Organization of the United Nations for the technical advice it has provided the Conference. Outside our Conference, FAO is in the final stages of completing the Code of Conduct for Responsible Fisheries. I hope that that work will benefit from the results we have achieved here. The Agreement adopted by this Conference and the Code of Conduct will serve to strengthen conservation and management practice for fisheries around the world. The willingness of the international community to commit itself to these initiatives clearly illustrates the concern and goodwill of all States to achieve lasting measures to address the crises being faced in world fisheries.

I am greatly indebted to the Vice-Chairmen who have supported me so ably throughout this Conference. They have provided encouragement and advice at difficult times and made my role as Chairman all the easier.

I wish to pay special tribute to my colleagues from the Pacific - Peniasi Kunatuba, Mary Harwood, Michael Lodge and Talbot Murray. Their assistance to me has been unstinting and selfless. Without them, my own contribution would have been lacking. I wish to acknowledge their outstanding contribution to this Conference.

I must also pay tribute to those from the Secretariat who have assisted me throughout the Conference. I would like to pay particular attention to the Legal Counsel, Mr. Hans Corell, and the Director of the Division for Ocean Affairs and the Law of the Sea, Mr. Jean-Pierre Levy; Mr. Moritaka Hayashi, Secretary of the Conference; to my Secretary, Ms. Cynthia Hardeman; to Ms. Josefa Velasco, Ms. Gabriele Götsche, and to Messrs Vladimir Jares, Maurice Jorgens and André Tahindro, and the other members of the Secretariat,

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including those from Conference Services, who have assisted the Conference. I also acknowledge the assistance provided to me by Dr. David Doullman of FAO.

You should feel satisfied and proud of the results which we have achieved together at this Conference. The issues we had to deal with were real and sensitive and needed the urgent attention of the world community. You responded to this challenge in a constructive and practical manner. We have had among us lawyers, fisheries experts, representatives of intergovernmental and non-governmental organizations, including industry and conservation interests. All have had access to the process. Even in the smallest consultations, all have been able to participate and all have actively contributed. We have set a model for the interaction of the various interests involved in diplomatic negotiations.

You have conducted these negotiations in a practical and serious manner, free from rancour and polemics. As could be expected, we began these negotiations with trepidation as to the best way to fulfil our mandate, and as to the form in which the results would best be reflected.

As we became acquainted with the issues and each other's preoccupations, we became ever more convinced of the obvious fact that the problems were common, and also became confident that we could succeed in dealing with them as such. We recognized that it was in our interest to achieve a result which would not allow us to continue "business as usual".

As we went along, individual States became more and more committed to the process. The result we have achieved today reflects a strong common purpose - the long-term sustainability of fishery resources.

As individuals, you have demonstrated your dedication to this purpose. You have served your Governments and your people well, and as citizens of the world, you have earned the gratitude of present and future generations.

Our countries may be dispersed all over the globe, but we are joined together by one ocean. We must protect and preserve the ocean environment and its resources. In this connection, we should recall the origins of this Conference in the Rio Conference on Environment and Development.

We must now proceed to the rapid implementation of this Agreement. Governments must demonstrate their commitment in a tangible manner by signing the Agreement and becoming parties to it as early as possible.

It was a great personal honour for me to have been elected Chairman of the Conference. I deeply appreciate the confidence shown by delegations in electing me to this important office. I have endeavoured to meet your expectations. If I have been inconsiderate in keeping a high pace and late nights, and in driving you hard, it is because I knew that you shared with me the deep sense of commitment to the cause and the goal we set for ourselves. It has been a great pleasure and privilege for me to work with such distinguished and highly competent old and new friends and colleagues. We the veterans of the Third Law of the Sea Conference had a tendency to wax nostalgic about our participation there but we are in turn heartened by the promise and dedication of the new

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generation and are confident that you will continue the ideals which motivated those of us who were privileged to be involved with the law of the sea.



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STRADDLING FISH STOCKS AND
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Sixth session
New York, 24 July-4 August 1995

REPORT ON THE SIXTH SESSION OF THE UNITED NATIONS CONFERENCE ON STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Prepared by the Secretariat

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 8	2
A. Opening of the session	1 - 3	2
B. Attendance	4 - 7	2
C. Programme of work	8	3
II. GENERAL DEBATE	9 - 10	4
III. CONSIDERATION OF THE ISSUES	11 - 13	4
IV. CREDENTIALS COMMITTEE	14 - 16	4
V. VOLUNTARY FUND	17 - 18	5
VI. ADOPTION OF THE AGREEMENT AND ADJOURNMENT OF THE SESSION	19 - 24	5

I. INTRODUCTION

A. Opening of the session

1. The sixth session of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was held in New York from 24 July to 4 August 1995. The session was convened in accordance with paragraph 2 of General Assembly resolution 49/121 of 19 December 1994, entitled "United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks". 1/

2. The Chairman of the Conference made a statement at the opening of the session. 2/ In that statement, he noted, *inter alia*, that, despite the best efforts and intentions of the international community over the past two decades and more, there had been very little improvement in the state of world fisheries conservation and management. The Conference had to deal with the fact that fishing, both on the high seas and within zones of national jurisdiction, must be more effectively controlled if the sustainability of the world's fishery resources was to be assured. He stressed that the Conference would have gone a long way towards achieving this objective if it had agreed upon concrete measures that translate into strong and sound fisheries conservation and management practice by all States in all areas with respect to straddling fish stocks and highly migratory fish stocks.

3. The Chairman also reported on progress made on the issue of enforcement during informal consultations convened by him in the week preceding the sixth session.

B. Attendance

4. Representatives of the following 112 States attended the session: Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Belize, Brazil, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kiribati, Lebanon, Lesotho, Luxembourg, Madagascar, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Morocco, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Niue, Norway, Pakistan, Palau, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saint Lucia, Samoa, Saudi Arabia, Senegal, Seychelles, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Syrian Arab Republic, Thailand, Tonga, Trinidad and Tobago, Turkey, Tuvalu, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela and Viet Nam.

5. The following specialized agencies and United Nations programmes were represented: Food and Agriculture Organization of the United Nations (FAO), and Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Environment Programme (UNEP).

6. The following intergovernmental organizations were represented: Inter-American Tropical Tuna Commission (IATTC), European Community, International Commission for the Conservation of Atlantic Tunas (ICCAT), International Maritime Satellite Organization (INMARSAT), Latin American Organization for Fisheries Development (OLDEPESCA), North Atlantic Salmon Conservation Organization (NASCO) and Permanent South Pacific Commission (CPPS).

7. The following non-governmental organizations were represented, in accordance with paragraphs 4 and 12 of General Assembly resolution 47/192 of 22 December 1992: American Oceans Campaign, American Society of International Law, Association Tunisienne pour la Protection de la Nature et de l'Environnement, Center for Marine Conservation, Confederación de Trabajadores Portuarios, Gente de Mar y Pesqueros de Chile (CONGEMAR), Confederación Nacional de Pescadores Artesanales de Chile, Council on Ocean Law, Environmental Defense Fund, Federación Nacional de Cooperativas Pesqueras del Ecuador, Federation of Japan Tuna Fisheries Cooperative Associations, Fisheries Council of Canada, Fish, Food and Allied Workers (FFAW CAW), Fundación Hernandiana, Friends World Committee for Consultation (Quaker United Nations Office), Global Education Associates, Greenpeace International, International Coalition of Fisheries Associations, International Collective in Support of Fishworkers (ICSF), International Confederation of Free Trade Unions, International Institute for Sustainable Development, International Law Association, International Union for the Conservation of Nature (IUCN), Japan Fisheries Association, Kandune Self Help Water Project, National Audubon Society, Natural Resources Defense Council, Red Mexicana de Acción frente al Libre Comercio, Réserve Internationale Maritime en Méditerranée Occidentale, Sindicato de Obreros Marítimos Unidos, Wildlife Conservation Society, World Wide Fund for Nature.

C. Programme of work

8. The Conference agreed to follow the programme of work as already approved at the previous sessions: 3/ (a) technical work relating to the finalization of the text (Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks prepared by the Chairman of the Conference (A/CONF.164/22/Rev.1)) and its harmonization in all languages; (b) consideration of the draft Final Act of the Conference; and (c) informal consultations of the Chairman with a view to resolving outstanding issues.

II. GENERAL DEBATE

9. At the 81st to 84th meetings, held on 24 July, 26 July and 1 August 1995, general statements were made by Mr. Brian Tobin, Minister of Fisheries and Oceans of Canada; Mr. V. M. Korelsky, Chairman of the Committee of Fisheries of the Russian Federation; Mr. Misa Telefoni Retzlaff, Minister for Agriculture, Forests and Fisheries of Samoa, on behalf of member countries of the South Pacific Forum Fisheries Agency; and by the representatives of Argentina, Bangladesh, Brazil, China, Ecuador, Japan, Malaysia, Mexico, Morocco, Norway, Peru, the Philippines, Poland, the Republic of Korea, Sri Lanka, Ukraine, the United States of America and Uruguay, as well as by the representative of the European Community.

10. Statements were also made by the representatives of the Food and Agriculture Organization of the United Nations (FAO), the Latin American Organization for Fisheries Development (OLDEPESCA) and the Permanent South Pacific Commission (CPPS), as well as by the observers for Greenpeace International and the Confederación de Trabajadores Portuarios, Gente de Mar y Pesqueros de Chile (CONGEMAR).

III. CONSIDERATION OF THE ISSUES

11. The Conference had before it the following documents: (a) "Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks prepared by the Chairman of the Conference" (A/CONF.164/22/Rev.1); (b) document containing the Draft Agreement with editorial suggestions and drafting improvements proposed by the Secretariat (A/CONF.164/CRP.7); and (c) the Draft Final Act of the Conference, including two draft resolutions (A/CONF.164/32).

12. At its informal plenary meetings held from 25 July to 3 August 1995, the Conference conducted an examination of the Draft Agreement for the purposes of refining its drafting, harmonizing recurring words and expressions and achieving concordance of the text of the Agreement in the six languages. In this, the Conference was assisted by Secretariat linguistic experts. Throughout the period, a series of informal open-ended consultations was conducted by the Chairman with a view to resolving outstanding substantive issues. The results of those consultations are reflected in the final draft of the Agreement.

13. On 4 August 1995, the Conference considered the Draft Final Act and the two draft resolutions.

IV. CREDENTIALS COMMITTEE

14. The Credentials Committee met on 31 July and 3 August 1995.

15. At the 85th meeting, held on 4 August 1995, the Chairman of the Credentials Committee, Mr. A. L. Daverede (Argentina), introduced the reports of the Credentials Committee (A/CONF.164/31 and A/CONF.164/34) and informed the

Conference that, in addition to the States which had submitted credentials in the form provided for by rule 4, paragraph 1, of the rules of procedure, credentials in such form had been submitted to the Secretary-General by Côte d'Ivoire, and that the appointment of representatives of Suriname had been communicated by note verbale from the Permanent Mission of Suriname to the United Nations. 4/

16. At the same meeting, the Conference approved both reports of the Credentials Committee and adopted the draft decision contained in paragraph 6 of the Committee's second report (A/CONF.164/34).

V. VOLUNTARY FUND

17. In paragraph 5 of resolution 49/121, the General Assembly had renewed its request to Governments and regional economic integration organizations to contribute to the voluntary fund established for the purpose of assisting developing countries, especially those most concerned by the subject-matter of the Conference, in particular the least developed among them, to participate fully and effectively in the Conference.

18. In response to the General Assembly's request, Canada and the Republic of Korea made contributions to the fund for the current session. Travel assistance for attending this session has been extended to two representatives from States falling under the provisions of paragraph 9 of resolution 47/192 of 22 December 1992. Travel expenses will be reimbursed to the other representatives from such States who applied for assistance in the order in which the applications were received and subject to availability of funds.

VI. ADOPTION OF THE AGREEMENT AND ADJOURNMENT OF THE SESSION

19. At the 85th meeting, held on 4 August 1995, the Conference adopted without a vote the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the draft of which is contained in document A/CONF.164/33. The Conference requested the Secretariat to prepare the final text of the Agreement incorporating necessary editing and drafting changes and ensuring concordance of the text in the six languages. 5/

20. The Conference also adopted without a vote resolutions I and II contained in the annex to the Draft Final Act of the Conference (A/CONF.164/32) and approved the Draft Final Act. 6/

21. At the same meeting, the Chairman made a closing statement. 7/ In that statement, he said, *inter alia*, that the Agreement was firmly based on the principles enshrined in the 1982 United Nations Convention on the Law of the Sea and that both instruments were intrinsically linked and were inseparable. He noted that the Agreement was built on three essential pillars. First, it set out principles on which conservation and management of the stocks had to be based, including the use of the precautionary approach and the best available

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scientific information. The second pillar ensured that the conservation and management measures were adhered to and complied with and not undermined. For this purpose, the primary responsibility of the flag State was reaffirmed and the framework for action by States other than the flag States was set out with clear safeguards against abuse. The third pillar was the provision for peaceful settlement of disputes. While providing for various possibilities of non-binding settlement, in the end result every dispute could be submitted to a court or tribunal for a binding decision. He stressed that the Agreement promoted the peaceful use of the oceans, a fundamental principle embodied in the 1982 United Nations Convention on the Law of the Sea which itself was derived from the purposes and principles of the Charter of the United Nations. The Agreement, moreover, established detailed minimum international standards for the conservation and management of the two types of stocks; ensured that the measures taken for the conservation and management of those stocks in areas under national jurisdiction and in the adjacent high seas were compatible and coherent; ensured that there were effective mechanisms for compliance and enforcement of those measures on the high seas; and recognized the special requirements of developing States in relation to conservation and management as well as the development and participation in fisheries for the two types of stocks. The Chairman concluded that the Conference, by adopting the Agreement and formulating recommendations 8/ to the General Assembly, had discharged the mandate given to it by the General Assembly in its resolution 47/192.

22. At the same meeting, statements were made by Mr. Brian Tobin, Minister of Fisheries and Oceans of Canada; Mrs. Emma Bonino, Commissioner for Fisheries, European Community; Mr. Thorsteinn Palsson, Minister of Fisheries of Iceland; Mr. Jan Henry T. Olsen, Minister of Fisheries of Norway; Mr. V. M. Korelsky, Chairman of the Committee of Fisheries of the Russian Federation; as well as by the representatives of Argentina, Australia (on behalf of member countries of the South Pacific Forum Fisheries Agency), Chile, China, Colombia, Estonia, Japan, Mexico, Namibia, Panama, Papua New Guinea, Peru, the Philippines, Poland, the Republic of Korea, the Syrian Arab Republic, Turkey, the United States of America and Uruguay.

23. Statements were also made by the representative of the Food and Agriculture Organization of the United Nations, as well as by the observers for World Wide Fund for Nature, Greenpeace International and the International Collective in Support of Fishworkers.

24. The Conference was adjourned until 4 December 1995, when it will reconvene for signature of the Agreement and the Final Act.

Notes

1/ A factual report on the fifth session of the Conference is contained in document A/CONF.164/29. The report of the Secretary-General on the Conference to the forty-ninth session of the General Assembly is contained in document A/49/522.

2/ A/CONF.164/30.

3/ See A/CONF.164/24, para. 9, A/CONF.164/25, paras. 30-31, A/CONF.164/28, paras. 24-27, and A/CONF.164/29, para. 49.

4/ Subsequently, by 30 August 1995, two more States, i.e., Lebanon and Romania, validated the appointment of their representatives by submitting credentials in the form provided for by rule 4, paragraph 1, of the rules of procedure.

5/ The final text will be issued as document A/CONF.164/37.

6/ The Final Act will be issued as document A/CONF.164/38.

7/ A/CONF.164/35.

8/ Resolutions I and II annexed to the Final Act.



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UNITED NATIONS CONFERENCE ON
STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
Sixth session
New York, 24 July-4 August 1995

AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF
THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND
MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY
MIGRATORY FISH STOCKS

AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF
THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND
MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY
MIGRATORY FISH STOCKS

The States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

Seeking to address in particular the problems identified in chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations,

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Use of terms and scope

1. For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

(d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2. (a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies mutatis mutandis:

(i) to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and

(ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention

which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2

Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3

Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.
2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.
3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies mutatis mutandis in respect of areas under national jurisdiction.

Article 4

Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART II

CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 5

General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

- (a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;
- (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
- (c) apply the precautionary approach in accordance with article 6;
- (d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;
- (e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;
- (f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
- (g) protect biodiversity in the marine environment;
- (h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
- (i) take into account the interests of artisanal and subsistence fishers;

(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;

(k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6

Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. In implementing the precautionary approach, States shall:

(a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

(b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3 (b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7

Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;

(b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving

compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

(b) take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;

(c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and

(f) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART III

MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8

Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9

Subregional and regional fisheries management organizations and arrangements

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

(b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are

aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10

Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

- (a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;
- (b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;
- (c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;
- (d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;
- (e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;
- (f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;
- (g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;
- (h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;
- (i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;
- (j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;
- (k) promote the peaceful settlement of disputes in accordance with Part VIII;
- (l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and

(m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11

New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12

Transparency in activities of subregional and regional fisheries management organizations and arrangements

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have

timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13

Strengthening of existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14

Collection and provision of information and cooperation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

(a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;

(b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

(c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:

(a) to agree on the specification of data and the format in which they are to be provided to such organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

(b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and

dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15

Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16

Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART IV

NON-MEMBERS AND NON-PARTICIPANTS

Article 17Non-members of organizations and non-participants
in arrangements

1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.
2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.
3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.
4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V

DUTIES OF THE FLAG STATE

Article 18

Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:

(i) to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

(ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;

(iii) to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and

(iv) to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;

(c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

(e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:

(i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;

(ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programmes; and

(iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI

COMPLIANCE AND ENFORCEMENT

Article 19

Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;

(d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20

International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.
2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.
3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.
4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.
5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.
6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.
7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21

Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.
2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.
3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.
4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.
5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.
6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

/...

(a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

(b) authorize the inspecting State to investigate.

7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this article, a serious violation means:

(a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3 (a);

(b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;

(c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;

(d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;

(e) using prohibited fishing gear;

(f) falsifying or concealing the markings, identity or registration of a fishing vessel;

(g) concealing, tampering with or disposing of evidence relating to an investigation;

(h) multiple violations which together constitute a serious disregard of conservation and management measures; or

(i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22

Basic procedures for boarding and inspection pursuant to article 21

1. The inspecting State shall ensure that its duly authorized inspectors:

(a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;

(b) initiate notice to the flag State at the time of the boarding and inspection;

(c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;

(d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;

(e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and

(f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

- (a) accept and facilitate prompt and safe boarding by the inspectors;
- (b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;
- (c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
- (d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;
- (e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and
- (f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23

Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.
2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.
3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.
4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

PART VII

REQUIREMENTS OF DEVELOPING STATES

Article 24Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

(a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organizations:

(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;

(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

(c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, inter alia, be directed specifically towards:

(a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26

Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII

PEACEFUL SETTLEMENT OF DISPUTES

Article 27

Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28

Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29

Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30

Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.
2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.
3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.
4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and

arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31

Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32

Limitations on applicability of procedures for the settlement of disputes

Article 297, paragraph 3, of the Convention applies also to this Agreement.

PART IX

NON-PARTIES TO THIS AGREEMENT

Article 33

Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.
2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

PART X

GOOD FAITH AND ABUSE OF RIGHTS

Article 34

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

Part XI

RESPONSIBILITY AND LIABILITY

Article 35

Responsibility and liability

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII

REVIEW CONFERENCE

Article 36

Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view

to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART XIII

FINAL PROVISIONS

Article 37

Signature

This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38

Ratification

This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39

Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41

Provisional application

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.
2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43

Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44

Relation to other agreements

1. This Agreement shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.
2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the

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relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45

Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

- (a) be considered as a Party to this Agreement as so amended; and
- (b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46

Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47

Participation by international organizations

1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:

- (a) article 2, first sentence; and
- (b) article 3, paragraph 1.

2. In cases where an international organization referred to in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organization in this Agreement:

- (a) at the time of signature or accession, such international organization shall make a declaration stating:
 - (i) that it has competence over all the matters governed by this Agreement;

- (ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and
 - (iii) that it accepts the rights and obligations of States under this Agreement;
- (b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;
- (c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48

Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.
2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

ANNEX I

STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA

Article 1

General principles

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2

Principles of data collection, compilation and exchange

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant

subregional or regional fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;

(d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3

Basic fishery data

1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

(a) time series of catch and effort statistics by fishery and fleet;

(b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];

(c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and

(e) fishing location, date and time fished and other statistics on fishing operations as appropriate.

2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

(a) composition of the catch according to length, weight and sex;

(b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4

Vessel data and information

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;

(b) vessel type;

(c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and

(d) fishing gear description (e.g., types, gear specifications and quantity).

2. The flag State will collect the following information:

(a) navigation and position fixing aids;

(b) communication equipment and international radio call sign; and

(c) crew size.

Article 5

Reporting

A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6

Data verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

- (a) position verification through vessel monitoring systems;
- (b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;
- (c) vessel trip, landing and transshipment reports; and
- (d) port sampling.

Article 7

Data exchange

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrangements. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

ANNEX II

GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.
2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.
3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.
4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.
5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.
6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.
7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.



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UNITED NATIONS CONFERENCE ON
STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
Sixth session
New York, 24 July-4 August 1995

FINAL ACT OF THE UNITED NATIONS CONFERENCE ON STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

I. INTRODUCTION

1. The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was convened pursuant to paragraph 1 of General Assembly resolution 47/192 of 22 December 1992 in accordance with the mandate agreed upon at the United Nations Conference on Environment and Development.

2. The United Nations Conference on Environment and Development, held at Rio de Janeiro from 3 to 14 June 1992, adopted Agenda 21, paragraph 17.49 of which reads as follows:

"States should take effective action, including bilateral and multilateral cooperation, where appropriate at the subregional, regional and global levels, to ensure that high seas fisheries are managed in accordance with the provisions of the United Nations Convention on the Law of the Sea. In particular, they should:

"...

"(e) Convene, as soon as possible, an intergovernmental conference under United Nations auspices, taking into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The conference, drawing, inter alia, on scientific and technical studies by FAO, should identify and assess existing problems related to the conservation and management of such fish stocks, and consider means of



improving cooperation on fisheries among States, and formulate appropriate recommendations. The work and results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of coastal States and States fishing on the high seas." 1/

3. The General Assembly, in its resolution 47/192, recalled Agenda 21, in particular chapter 17, programme area C, relating to the sustainable use and conservation of marine living resources of the high seas, and decided that the Conference, in accordance with the mandate quoted above, should take into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The Assembly further decided that the Conference, drawing, *inter alia*, on scientific and technical studies by the Food and Agriculture Organization of the United Nations, should: (a) identify and assess existing problems related to the conservation and management of such fish stocks; (b) consider means of improving fisheries cooperation among States; and (c) formulate appropriate recommendations.

4. The General Assembly also reaffirmed that the work and results of the Conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of coastal States and States fishing on the high seas, and that States should give full effect to the high seas fisheries provisions of the Convention with regard to fisheries populations whose ranges lie both within and beyond exclusive economic zones (straddling fish stocks) and highly migratory fish stocks.

5. By the same resolution, the General Assembly invited relevant specialized agencies, particularly the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, as well as regional and subregional fisheries organizations, to contribute relevant scientific and technical studies and reports. It also invited relevant non-governmental organizations from developed and developing countries to contribute to the Conference within the areas of their competence and expertise.

II. SESSIONS OF THE CONFERENCE

6. Pursuant to General Assembly resolutions 47/192, 48/194 of 21 December 1993 and 49/121 of 19 December 1994, the following sessions of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks were held at United Nations Headquarters in New York: 2/

- First session: 19 to 23 April 1993;
- Second session: 12 to 30 July 1993;
- Third session: 14 to 31 March 1994;
- Fourth session: 15 to 26 August 1994;
- Fifth session: 27 March to 12 April 1995;
- Sixth session: 24 July to 4 August 1995. 3/

III. PARTICIPATION IN THE CONFERENCE

7. Pursuant to paragraph 4 of General Assembly resolution 47/192, the following were invited to the Conference:

- (a) States Members of the United Nations or members of the specialized agencies and the International Atomic Energy Agency;
- (b) Representatives of organizations that have received a standing invitation from the General Assembly to participate, in the capacity of observers, in the sessions and work of all international conferences convened under its auspices;
- (c) Associate members of regional commissions;
- (d) Representatives of the national liberation movements recognized by the Organization of African Unity in its region;
- (e) Specialized agencies and the International Atomic Energy Agency, as well as other organs, organizations and programmes of the United Nations system;
- (f) Relevant intergovernmental organizations that had been invited to participate in the work of the Preparatory Committee for the United Nations Conference on Environment and Development;
- (g) Regional and subregional fisheries organizations;
- (h) Relevant non-governmental organizations.

8. The representatives of the following States participated in the sessions of the Conference: Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Brazil, Bulgaria, Burundi, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic People's Republic of Korea, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kiribati, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Morocco, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Niue, Norway, Pakistan, Palau, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Lucia, Samoa, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela, Viet Nam, Zambia and Zimbabwe.

9. The representative of the European Community 4/ participated in the sessions without the right to vote.

10. The following associate members of a regional commission were represented as observers at the sessions: Montserrat and United States Virgin Islands.

11. The following national liberation movement was represented as observer at the first session: Pan Africanist Congress of Azania.

12. The following specialized agencies were represented as observers at the sessions: Food and Agriculture Organization of the United Nations (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Bank.

13. The Intergovernmental Oceanographic Commission (IOC) of UNESCO, the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP) were also present as observers at the sessions.

14. The following intergovernmental organizations were represented as observers at the sessions: Asian-African Legal Consultative Committee, Commission on the Indian Ocean, Inter-American Tropical Tuna Commission, International Commission for the Conservation of Atlantic Tunas, International Council for the Exploration of the Sea, International Maritime Satellite Organization, International Whaling Commission, Latin American Organization for the Development of Fisheries, Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean, North Atlantic Salmon Conservation Organization, Northwest Atlantic Fisheries Organization, Organization of African Unity, Organisation for Economic Cooperation and Development, South Pacific Commission, South Pacific Permanent Commission and South Pacific Forum Fisheries Agency.

15. The following non-governmental organizations were represented as observers at the sessions: Alaska Marine Conservation Council, Alaska Public Interest Research Group, American Oceans Campaign, American Society of International Law, Association Algérienne pour la Protection de la Nature et de l'Environnement, Association Tunisienne pour la Protection de la Nature et de l'Environnement, Association of the Bar of the City of New York, Atlantic Salmon Federation, Bering Sea Fisherman's Association, Both Ends, Canadian Oceans Caucus, Center for Development of International Law, Center for Marine Conservation, Centre de Recherches pour le Développement des Technologies Intermédiaires de Pêche, Comité Catholique Contre la Faim et pour le Développement, Confederación de Trabajadores Portuarios, Gente de Mar y Pesqueros de Chile, Confederación Nacional de Pescadores Artesanales de Chile, Coordinadora de Tripulantes Pesqueros Industriales del Cono Sur de América Latina, Council on Ocean Law, Earth Council, Earth Island Institute, Earthtrust, Environmental Defense Fund, Federación Nacional de Cooperativas Pesqueras del Ecuador, Federation of Japan Tuna Fisheries Cooperative Associations, Fish, Food and Allied Workers, Fisheries Council of Canada, Four Directions Council, Friends of the Earth International, Friends World Committee for Consultations (Quaker United Nations Office), Fundación Hernandiana, Global Education Associates, Greenpeace International, Groupement d'Intérêt Économique, International Coalition of Fisheries Associations, International Coastal and Ocean Organization,

International Collective in Support of Fishworkers, International Confederation of Free Trade Unions, International Institute for Sustainable Development, International Law Association, International Ocean Institute, International Union for the Conservation of Nature and Natural Resources (IUCN), Japan Fisheries Association, Kandune Self Help Water Project, Marine Environmental Research Institute, Namibian Food and Allied Workers Union, National Audubon Society, National Wildlife Federation, Nationwide Coalition of Fisherfolks for Aquatic Reform, Natural Resources Defense Council, Netherlands National Committee for IUCN, Newfoundland and Labrador Environmental Association, Newfoundland Inshore Fisheries Association, Oceans Institute of Canada, Ocean Trust, Overseas Fishery Cooperation Foundation, Pamalakaya (National United Movement of Fisherfolk - Philippines), Red Mexicana de Acción frente al Libre Comercio, Réserve Internationale Maritime en Méditerranée Occidentale, Samoan Association of Non-governmental Organizations, Sindicato de Obreros Marítimos Unidos, SONAR (Save Our Northwest Atlantic Resources), Trickle Up Program, United Nations Association in Canada, United Nations Association-United Kingdom, United Nations Environment and Development-United Kingdom Committee, Wildlife Conservation Society, Women and Fisheries Network, World Wide Fund for Nature, World Wide Fund Suisse.

16. Pursuant to paragraph 9 of General Assembly resolution 47/192, a voluntary fund was established in the Secretariat for the purpose of assisting developing countries, especially those most concerned by the subject-matter of the Conference, in particular the least developed among them, to participate in the Conference. Contributions to the Fund were made by the Governments of Canada, Japan, Norway and the Republic of Korea.

IV. OFFICERS AND COMMITTEES

17. At its first meeting, the Conference elected Mr. Satya N. Nandan (Fiji) as its Chairman.

18. The Conference also elected as Vice-Chairmen the representatives of the following States: Chile, Italy and Mauritania.

19. The Conference appointed the representatives of the following States as members of the Credentials Committee: Antigua and Barbuda, Argentina, Burundi, China, Kenya, New Zealand, Papua New Guinea, Russian Federation and United States of America. At its first meeting, on 28 July 1993, the Credentials Committee elected Mr. Alberto Luis Daverede (Argentina) as its Chairman.

20. At the first and second sessions, Mr. Carl-August Fleischhauer, Under-Secretary-General for Legal Affairs, the Legal Counsel, and thereafter Mr. Hans Corell, served as Secretary-General of the Conference, representing the Secretary-General of the United Nations. For the first four sessions, Mr. Dolliver L. Nelson, and thereafter Mr. Moritaka Hayashi, served as Secretary of the Conference.

21. In accordance with paragraph 11 of General Assembly resolution 47/192, the Food and Agriculture Organization of the United Nations provided an officer,

Mr. David J. Doulman, to serve as Scientific and Technical Adviser to the Conference.

V. DOCUMENTATION OF THE CONFERENCE

22. The Conference documentation 5/ included, inter alia, the following:

- (a) Rules of procedure; 6/
- (b) Proposals and other communications submitted by delegations; 7/
- (c) Reports and studies submitted by the Secretariat, FAO and IOC; 8/
- (d) Reports and comments submitted by intergovernmental organizations, regional and subregional fisheries organizations and arrangements; 9/
- (e) Statements by the Chairman of the Conference; 10/
- (f) A guide to the issues before the Conference, the negotiating texts and the draft agreement prepared by the Chairman of the Conference. 11/

VI. WORK OF THE CONFERENCE

23. The Conference adopted its agenda (A/CONF.164/5) and rules of procedure (A/CONF.164/6) at its first session.

24. At the second session, the Conference devoted the first three days to general debate, following which the Chairman outlined the key issues on which there was general agreement. 12/

25. At the same session, the Conference proceeded to examine the issues relating to straddling fish stocks and highly migratory fish stocks as contained in the document entitled "A guide to the issues before the Conference prepared by the Chairman" (A/CONF.164/10).

26. At the end of the second session, the Chairman prepared a negotiating text (A/CONF.164/13), which the Conference considered at the third session.

27. Also at the third session, the Conference established two open-ended working groups to consider the information papers, prepared by FAO at the request of the Conference, on the precautionary approach to fisheries management and on management reference points. Mr. Andrés Couve (Chile) and Mr. Andrew Rosenberg (United States of America) served as chairmen of the working groups. The results of the work of the two working groups are contained in documents A/CONF.164/WP.1 and WP.2. At the end of the third session, the Chairman submitted a revision of his negotiating text (A/CONF.164/13/Rev.1), which reflected the work of the Working Groups.

28. At the fourth session, the Chairman prepared a new revision of his negotiating text in the form of a binding instrument, entitled "Draft Agreement

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for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks" (A/CONF.164/22). At the end of the fifth session, the Chairman prepared a revised text of the Draft Agreement (A/CONF.164/22/Rev.1).

29. At the sixth session, the Conference considered the revised text of the Draft Agreement (A/CONF.164/22/Rev.1), as well as suggested drafting changes and editorial improvements (A/CONF.164/CRP.7). Following the deliberations of the Conference, the Chairman proposed for adoption a "Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks" (A/CONF.164/33).

30. On 4 August 1995, the Conference adopted without a vote the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, as well as resolutions I and II (A/CONF.164/32, annex). The two resolutions are annexed to this Final Act. In doing so, the Conference discharged the mandate given to it by the General Assembly in its resolution 47/192.

31. The Conference decided to resume its sixth session on 4 December 1995 for a ceremony of signature of the Agreement and this Final Act. The Conference requested the Secretariat to prepare the final text of the Agreement, incorporating necessary editing and drafting changes and ensuring concordance among the six language versions. 13/

IN WITNESS WHEREOF the undersigned have signed this Final Act.

DONE AT UNITED NATIONS HEADQUARTERS in New York this fourth day of December, one thousand nine hundred ninety-five, in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. The original texts shall be deposited in the archives of the United Nations Secretariat.

The Chairman of the Conference:

Satya N. NANDAN

The Under-Secretary-General for Legal Affairs, The Legal Counsel:

Hans CORELL

The Secretary of the Conference:

Moritaka HAYASHI

Notes

1/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.96.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex II, paragraph 17.49.

2/ Reports on each of the sessions are contained in A/CONF.164/9 (first (organizational) session), A/CONF.164/16 and Corr.1 (second session), A/CONF.164/20 (third session), A/CONF.164/25 (fourth session), A/CONF.164/29 (fifth session) and A/CONF.164/36 (sixth session).

3/ See paragraph 31 below.

4/ Rule 2 of the rules of procedure of the Conference (A/CONF.164/6) provides that:

"The representative of the European Economic Community shall participate in the Conference in matters within its competence without the right to vote. Such representation shall in no case entail an increase of the representation to which the States members of the European Economic Community would otherwise be entitled."

In adopting the above rule the Conference recorded the following understanding:

"This rule is agreed upon in view of the fact that, with regard to the conservation and management of the sea fishing resources, States members of the European Economic Community have transferred competence to the Community, and in no way does it constitute a precedent for other United Nations forums where a similar transfer of competence does not occur. (See Declaration of the European Economic Community upon signing the United Nations Convention on the Law of the Sea. Multilateral treaties deposited with the Secretary-General (ST/LEG/SER.E/10, p. 801).)" (A/CONF.164/6, note 1)

The Secretariat was informed during the third session of the Conference that the European Economic Community had changed its name to the European Community.

5/ For a complete listing of the Conference documentation, see A/CONF.164/INF/16.

6/ A/CONF.164/6.

7/ A/CONF.164/L.1-L.50.

8/ Report of the technical consultation on high seas fishing and the papers presented at the technical consultation on high seas fishing (FAO) (A/CONF.164/INF/2); information on activities of the Intergovernmental Oceanographic Commission relevant to the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/INF/3); some high seas fisheries aspects relating to straddling fish stocks and highly migratory fish stocks (FAO) (A/CONF.164/INF/4 and Corr.1); background paper prepared by the

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Secretariat (A/CONF.164/INF/5); the precautionary approach to fisheries with reference to straddling fish stocks and highly migratory fish stocks (FAO) (A/CONF.164/INF/8); and reference points for fisheries management - their potential application to straddling and highly migratory resources (FAO) (A/CONF.164/INF/9).

9/ Report of the first session of the International Conference on the Conservation and Management of the Marine Living Resources in the High Seas of the Okhotsk Sea (submitted by the delegation of the Russian Federation) (A/CONF.164/INF/6); Ad hoc consultation on the role of regional fishery agencies in relation to high-seas fishing statistics (A/CONF.164/INF/10); comments by the Coordinating Working Party on Fishery Statistics on annex I to the Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/INF/13).

10/ A/CONF.164/7, 8, 11, 12, 15, 17, 19, 21, 24, 26, 28, 30 and 35.

11/ A guide to the issues before the Conference (A/CONF.164/10); Negotiating text (A/CONF.164/13); Revised negotiating text (A/CONF.164/13/Rev.1); Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/22); revised Draft Agreement (A/CONF.164/22/Rev.1); and Draft Agreement (A/CONF.164/33).

12/ See A/48/479, para. 10.

13/ The final text of the Agreement will be issued as document A/CONF.164/37.

ANNEX

Resolution I

Early and effective implementation of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks,

Having adopted the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,

Underlining the importance of early and effective implementation of the Agreement,

Recognizing, therefore, the need to provide for the provisional application of the Agreement,

Emphasizing the importance of rapid entry into force of the Agreement and early achievement of universal participation,

1. Requests the Secretary-General of the United Nations to open the Agreement for signature in New York on 4 December 1995;
2. Urges all States and other entities referred to in article 1, paragraph 2 (b), of the Agreement to sign it on 4 December 1995 or at the earliest subsequent opportunity and thereafter to ratify, or accede to it;
3. Calls upon States and other entities referred to in paragraph 2 of the present resolution to apply the Agreement provisionally.

Resolution II

Reports on developments by the Secretary-General of the United Nations

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks,

Having adopted the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,

Recognizing the importance of periodic consideration and review of developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,

Recalling General Assembly resolution 49/28 of 6 December 1994, in which the Assembly underlined the importance of consideration and review of the overall developments relating to the law of the sea by the Assembly, as the global institution having the competence to undertake such a review,

Recalling also the responsibility of the Secretary-General under the United Nations Convention on the Law of the Sea to report on developments pertaining to the implementation of the Convention,

Recognizing the importance of exchange of information among States, and relevant intergovernmental and non-governmental organizations concerning the implementation of the Agreement,

1. Recommends to the General Assembly that it review developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, on the basis of a report to be submitted by the Secretary-General at the second session following the adoption of the Agreement and biennially thereafter;

2. Requests the Secretary-General of the United Nations, in preparing such report, to take into account information provided by States, the Food and Agriculture Organization of the United Nations and its fisheries bodies and subregional and regional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and relevant non-governmental organizations;

3. Also requests the Secretary-General to cooperate with the Food and Agriculture Organization of the United Nations in order to ensure that reporting on all major fisheries instruments and activities is coordinated and the required scientific and technical analysis standardized to minimize duplication and to reduce the reporting burden for national administrations.
